

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

AARON MARTIN MERCADO-GRACIA,

Movant,

v.

CV 23-219 JCH/GJF  
CR 16-1701 JCH/GJF

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

United States Magistrate Judge Gregory Fouratt filed a Proposed Findings and Recommended Disposition (“PFRD”) on May 14, 2024, in which he recommended that the Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody be denied and this case be dismissed with prejudice. ECF 15. The PFRD notified the parties of their ability to file objections within fourteen days and that failure to do so waived appellate review. *Id.* at 8.<sup>1</sup> Neither party filed objections and the deadline for doing so has expired. Accordingly, the Court concludes that appellate review has been waived.

**IT IS THEREFORE ORDERED** that the PFRD is **ADOPTED**. In addition, because Mercado-Gracia failed to make a substantial showing that he has been denied a constitutional right, the Court will **DENY** a Certificate of Appealability. *See* 28 U.S.C. § 2253. A final order entered concurrently herewith **DISMISSES** this case **WITH PREJUDICE**.

  
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SENIOR UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Because Mercado-Gracia receives service by mail, he was permitted to file objections to the PFRD by May 31, 2024. *See* Fed. R. Civ. P. 6(d). He has instead filed nothing even as of the date on which this Order is entered.